

Lower House adopts 2019 Tax Plan package and ATAD1 bill

On November 15, 2018, the Lower House of Parliament adopted the 2019 Tax Plan package and the bill implementing the First European Anti-Tax Avoidance Directive (ATAD1). A number of amendments and motions were also adopted. The adopted amendments and the most important adopted motions are summarized below.

ATAD1

- For the purposes of the Controlled Foreign Company (CFC) measure, a controlled entity is said to exist if that entity meets, among other things, the condition that it is established in a low-taxed state. This is the case if that state does not subject entities to a profit tax or subjects them to a profit tax at a statutory rate of less than 7%, or if that state appears on the EU list of non-cooperative jurisdictions for tax purposes. The aforementioned rate of 7% will be increased to 9% (amendment 35030-10).
- The government has been asked to monitor and evaluate the effects of the ATAD1 measures and to report on them separately to the Lower House by 2024 at the latest (motion 35030-18).
- The government has been asked to have a follow-up study performed to see whether greater insight can also be provided into other financial flows and tax arrangements, and if possible to carry out baseline measurements as well. This refers to the SEO Economic Research Unit's investigation into financial flows passing through the Netherlands and which serves as a baseline measurement to monitor the impact of the conditional withholding taxes to be introduced. In adopting this motion, the Lower House was looking ahead to a number of other measures that will be taken in the coming years, such as the CFC measure, interest deduction limitation, combating hybrid mismatches, the multilateral treaty (MLI), possibly stricter substance requirements in the ruling policy and possible measures against double non-taxation via informal capital structures (motion 35030-19).

2019 Tax Plan package

- With respect to property tax, municipalities are given the freedom to charge sports facilities, village halls, other organizations representing the public interest, such as local music societies or scouts groups, and charities the usually lower tax rate for homes, instead of the usually higher rate for non-residential properties (amendment 35026-52).
- The Environmental Taxes Act will include an exemption from waste tax for the issue for disposal or transfer for removal of separately presented asbestos and products containing asbestos originating from asbestos roofs, which must be removed by the end of 2024 at the latest (amendment 35029-18).
- The government has been asked to maintain the option available in the VAT small businesses scheme which allows small businesses, natural persons and partnerships with only natural persons to file an annual return (motion 35033-8).

In conclusion

The adopted amendments will be incorporated into the legislative proposals, after which they will be debated in the Upper House in the coming weeks. Unlike the Lower House, the Upper House cannot make any changes, but can only adopt or reject the legislative proposals in their entirety (although the latter is unlikely). The voting on the 2019 Tax Plan package and ATAD1 is scheduled for December 18, 2018. The adopted motions described above will probably be implemented because the Deputy Minister of Finance has not advised against them.

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